LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 86 LCA 75.

Bangalore, dated 21/22nd October 1975.

Ordered that the Indian Railways (Amendment) Ordinance, 1975 No. (10 of 1975) published in Part II, Section I of the *Gazette of India, Extraordinary* dated 25th September 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

Under Secretary to Government,

44 *Department of Law and Parliamentary Affairs.*

THE INDIAN RAILWAYS (AMENDMENT) ORDINANCE, 1975

No. 10 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance further to amend the Indian Railways Act, 1890.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title and commencement.** (1) This Ordinance may be called the Indian Railways (Amendment) Ordinance, 1975.

(2) It shall come into force at once.

2. **Act 9 of 1890 to be temporarily amended:**—During the period of operation of this Ordinance, the Indian Railways Act, 1890, shall have effect subject to the Amendments specified in section 3.

3. **Amendment of Act 9 of 1890.** In the Indian Railways Act, 1890. after section 56A, the following sections shall be inserted, nameiy:—

'56B. **Special provisions as to goods booked to notified stations.** (1) In this section and in sections 56C and 56D, unless the context otherwise requires,—

(*a*) "essential commodity" means essential commodity as defined in clause (*a*) of section 2 of the Essential Commodities Act, 1955; **10 of 1955.**

(b) "State Government", in relation to a notified station, means the Government of the State in which such station is situated or where such station is situated in a Union territory; the Administrator of that Union territory appointed under article 239 of the Constitution;

(*c*) "notified station" means a station declared to be a notified station under sub-section (2)·

(*d*) "prescribed" means prescribed by rules made by the Central Government under section 56E;

(*e*) "termination of transt" means termination of transit determined in accordance with the provisions of clause (*a*) of sub-section (5) of section 77.

(2) The Central Government may, if satisfied that it is necessary that goods booked by trains intended solely for the carriage of goods to any railway station should be removed without delay from such railway station, declare, by notification in the Official Gazette, such railway station to be a notified station for such period as may be specified in the notification.

Provided that before declaring any railway station to be a notified station under this sub-section, the Central Government shall have regard to all or any of the following factors, namely :—

(a) the volume of traffic and the storage space available at such railway station ;

(b) the nature and quantities of goods generally booked to such railway station ;

(c) the scope for the causing scarcity of such goods by not removing them for long periods from such railway station and the hardship which such scarcity may cause to the community ;

(d) the number of wagons likely to be held up at such railway station if goods are not removed therefrom quickly and the need for quick movement and availability of such wagons ;

(e) such other factors (being factors relevant from the point of view of the interest of the general public) as may be prescribed:

Provided further that the period specified in any notification issued under this sub-section in respect of any railway station shall not exceed six months in the first instance but such period may, by a like notification, be extended from time to time by a period not exceeding six months on each occasion.

(*3*) If any person delivering to a railway administration any goods to be carried to a notified station makes an application in such form and manner as may be prescribed and specifies therein the address of the person to whom intimation of the arrival of the goods at the notified station shall be given and pays the postage fee required for giving such intimation, the railway administration shall, as soon as may be after the arrival of the goods at the notified station, send such intimation by registered post.

(*4*) There shall be exhibited at a conspicuous place in each notified station a statement in the prescribed form setting out the description of the goods which by reason of the fact that they have not been removed from the station within a period of seven days from the termination of transit thereof are liable to be sold, in accordance with the provisions of sub-section (*1*) of section 56C, by

public auction and the dates on which they would be so sold :

Provided that different statements may be so exhibited in respect of goods proposed to be sold on different dates.

(*5*) If the goods specified in any statement prepared under sub-section (4) include essential commodities, the officer preparing the statement shall, as soon as may be after the preparation of such statement, forward a copy thereof to—

(*a*) the representative of the Central Government, nominated by that Government in this behalf ;

(*b*) the representative of the State Government, nominated by that Government in this behalf ; and

(*c*) the district magistrate within the local limits of whose jurisdiction the railway station is situated.

56C. Disposal of unremoved goods at notified Stations: —(*1*) If any goods booked for carriage by railway to any notified station by a train intended solely for the carriage of goods are not removed from such station by a person entitled to do so within a period of seven days after the termination of transit thereof at such station, the railway administration may, subject to the provisions of sub-section (2), sell such goods by public auction and apart from exhibiting in accordance with the provisions of sub-section (4) of section 56B a statement containing a description of such goods it shall not be necessary to give any notice of such public auction, but the dates on which such auction may be held under this sub-section may be notified in one or more local newspapers or where there are no such newspapers, in such manner as may be prescribed.

Provided that if it anytime before the sale of such goods under this sub-section the person entitled thereto pays the rates or charges and the expenses due in respect thereof to the railway administration, he shall be allowed to remove such goods.

(2) If any essential commodities which may be sold by public auction under sub-section (1) at a notified station are required by the Central Government or the State Government for its own use or if the Central Government or such State Government considers that it is necessary for securing the availability of all or any such essential commodities at fair prices so to do, it may, by order in writing, direct the officer, in charge of such auction to transfer such goods to it or to such agency, co-operative society or other person (being an agency, co-operative society or other person subject to the control of the Government) engaged in the business of selling such essential commodities as may be specified in the direction.

(3) Every directions issued under sub-section (2) in respect of any essential commodity shall be binding on the Officer to whom it is issued and the railway administration and it shall be a sufficient defence against any claim by the person entitled to the delivery thereof that such essential commodities have been transferred in compliance with such direction

Provided that—

(a) such direction shall not binding on such person or the railway administration—

(i) if it has not been received by such officer sufficiently in time to enable him to prevent the sale of the essential commodities to which it relates; or

(ii) if before the time appointed for such sale the person entitled to such goods pays the rates or charges and the expenses due in respect thereof and claims that he be allowed to remove the goods; or

(iii) if the price payable for such goods (as estimated by the Central Government or, as the case may be, the State Government) has not been credited to the railway administration in the prescribed manner and the railway administration is not indemnified against any additional amount which it may become liable to pay towards price by reason of the price not having been computed in accordance with the provisions of sub-section (4);

(b) where directions are issued in respect of the same goods both by the Central Government and the State Government, the directions received earlier shall prevail.

(4) The price payable for any essential commodity transferred in compliance with a direction issued under sub-section (2) shall be the price calculated in accordance with the provisions of sub-section (3) of section 3 of the Essential Commodities Act, 1955 (10 of 1955):

Provided that—

(a) in the case of any essential commodity being a foodstuff in respect whereof a notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 (10 of 1955.) is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (iii) and (iv) of that sub-section;

(b) in the case of an essential commodity being any grade or variety of foodgrains, edible oil-seeds or edible oils in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 10 of 1955. is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (*i*) and (*ii*) of sub-section (*3 B*) of that section;

(c) in the case of an essential commodity being any kind of sugar in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 (10 of 1955.) is in force in the locality in which the notified station is situated, the price payable shall if such sugar has been booked by the producer to himself, be calculated in accordance with the provisions of sub-section (3C) of that section.

Explanation.—For the purposes of this clause, the expressions "produces" and "sugar" shall have the meanings assigned to those expressions in the *Explanation* to sub-section (3C) of section 3, and clause (*e*) of section 2, of the Essential Commodities Act, 1955 (10 of 1955), respectively.

56D. Price to be paid to person entitled after deducting dues. (1) Out of the proceeds of any sale of goods under sub-section (1) of section 56C or the price payable therefor under sub-section (4) of that section, the railway administration may retain a sum equal to the rates or charges due in respect of the goods and the expenses incurred in respect of the goods and the auction thereof and render the surplus, if any, to the person entitled thereto.

(2) Notwithstanding anything contained in sub-section (1), the railway administration may recover by suit any such rate or charge or expenses referred to therein or balance thereof.

(3) Any goods sold under sub-section (1) of section 56C or transferred in compliance with directions issued under sub-section (2) of that section shall vest in the buyer or the transferee free from all encumbrances but subject to a priority being given for the sum which may be retained by a railway administration under sub-section (1), the person in whose favour such encumbrance subsists may have a claim in respect of such encumbrance against the surplus, if any, referred to in that sub-section.

56E. **Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of sections 56B, 56C and 56D.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the factors to which the Central Government shall have regard under clause (c) of the first proviso to sub-section (2) of section 56B;

(*b*) the form and manner in which an application may be made under sub-section (3) of section 56B;

(*c*) the form in which a statement required to be exhibited under sub-section (4) of section 56B shall be prepared;

(*d*) the manner in which the dates of public auctions may be notified under sub-section (1) of section 56C; and

(*e*) the manner of crediting to the Railway Administration the price of goods referred to in sub-clause (*iii*) of clause (*a*) of the proviso to sub-section (3) of section 56C.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.'.

FAKHRUDDIN ALI AHMED,
PRESIDENT 25-9-75

K. K. SUNDARAM,
Secy. to the Govt. of India.

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